MONTANA LEGISLATIVE HISTORY

Chapter 321 1991

Bill H _____ S 298 Original bill & history ____C

H. Committee on Fish & Game			S. Committee on Fish & Game		
Hearing Date(s)	Mar 15	✓ C	Hearing Date(s)	Feb 19	✓ C
	_____	____C		_____	____C
	_____	____C		_____	____C
	_____	____C		_____	____C
Date Out	Mar 16	✓ C		Feb 20	✓ C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

2/07	FIRST READING		
2/07	FISCAL NOTE REQUESTED		
2/11	REREFERRED TO HIGHWAYS & TRANSPORTATION		
2/13	FISCAL NOTE RECEIVED		
2/15	FISCAL NOTE PRINTED		
2/21	TABLED IN COMMITTEE		

SB 297 INTRODUCED BY NOBLE, ET AL.

ENABLE DEPARTMENT OF HIGHWAYS TO PERMIT CERTAIN VEHICLE COMBINATIONS THAT WERE OPERATED BEFORE JULY 1, 1987

2/06	INTRODUCED		
2/07	REFERRED TO HIGHWAYS & TRANSPORTATION		
2/07	FIRST READING		
2/14	HEARING		
2/15	COMMITTEE REPORT—BILL PASSED		
2/15	REREFERRED TO HIGHWAYS & TRANSPORTATION		
2/20	COMMITTEE REPORT—BILL PASSED		
2/21	2ND READING PASSED	49	0
2/22	3RD READING PASSED	49	0
	TRANSMITTED TO HOUSE		
3/04	FIRST READING		
3/04	REFERRED TO HIGHWAYS & TRANSPORTATION		
3/13	HEARING		
3/18	COMMITTEE REPORT—BILL CONCURRED		
3/20	2ND READING CONCURRED	75	23
3/21	3RD READING CONCURRED	73	25
	RETURNED TO SENATE		
3/27	SIGNED BY SPEAKER		
3/28	SIGNED BY PRESIDENT		
3/28	TRANSMITTED TO GOVERNOR		
4/02	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 320	EFFECTIVE DATE: 10/01/91	

SB 298 INTRODUCED BY YELLOWTAIL, ET AL.

CLARIFY RESIDENCY FOR HUNTING, FISHING, & TRAPPING LICENSING

BY REQUEST OF DEPARTMENT OF FISH, WILDLIFE, & PARKS

2/06	INTRODUCED		
2/07	REFERRED TO FISH & GAME		
2/07	FIRST READING		
2/19	HEARING		
2/20	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/22	2ND READING PASSED	49	0
	TRANSMITTED TO HOUSE		
2/23	3RD READING PASSED	49	0
3/04	FIRST READING		
3/04	REFERRED TO FISH & GAME		
3/15	HEARING		
3/16	COMMITTEE REPORT—BILL CONCURRED		
3/16	PLACED ON CONSENT CALENDAR		
3/19	3RD READING CONCURRED	99	0
	RETURNED TO SENATE		
3/27	SIGNED BY PRESIDENT		
3/27	SIGNED BY SPEAKER		
3/28	TRANSMITTED TO GOVERNOR		
4/02	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 321	EFFECTIVE DATE: 7/01/91	

EXECUTIVE ACTION ON HB 115

Motion:

Senator Swift made the motion to pass HB 115.

Recommendation and Vote:

House Bill 115 was concurred unanimously. Senator Weeding will carry the bill in the Senate.

HEARING ON SB 298

Presentation and Opening Statement by Sponsor:

Senator Yellowtail, Senate Dist. 50, explained that SB 298 clarifies and restricts the granting of resident licenses for hunting, fishing and trapping purposes. This bill will establish penalties for misrepresentation.

Proponents' Testimony:

K. L. Cool, Director of Fish, Wildlife and Parks, stated that there is no privilege that a Montanan receives that is so highly sought after than his ability to hunt, fish or participate in out-door recreation. See Exhibit No. 4.

Bob Winfield, Captain of the Fish, Wildlife and Parks, stated that our right and privilege as a resident of the State of Montana to hunt and fish are held dearly by many. Over the last five or six years, the FWP has experienced a definite increase in the numbers of nonresident individuals purchasing resident licenses. He urges support of SB 298.

Tony Schoonen, representing the Montana Wildlife Federation, supports SB 298.

Steve Vinnedge, representing the Montana Game Wardens Assn., commented that the wardens have found people carrying multiple driver licenses from different states, people who purchase and register vehicles in Montana and keep them on property that they have purchased in the State. However, the only time you see them in the State is when the hunting season arrives. The people the FWP are after are not concerned with the cost of a non-resident license. They are not trying to take lawful hunting rights away from people--the people they are after are the ones that can well afford to hire an outfitter and pay the non-resident license fees.

Opponents' Testimony:

None

Questions From Committee Members:

Senator Svrcek asked Senator Yellowtail about language in the bill which suggest only male persons are addressed when he is aware of many female constituents who pay their money to hunt and fish. Senator Yellowtail stated that this is a conventional way of drafting. Senator Svrcek said there has been a move to draft legislation that is gender neutral.

Senator Franklin commended Senator Svrcek for such close scrutiny of the bill.

Ms. Merrill stated that "he" does speak for both he and she in the code; however, they have tried to work in gender neutral terms whenever possible.

Senator Swift asked if it would be required to have all five types of identification as stated in the bill or would only one of these be required. Bob Winfield stated that it would not be necessary to have all types and the list was one that the FWP has used through the years. Someone who is a bonafide resident of the State would have no problem presenting any one of these.

Senator Grosfield questioned whether a person serving their country overseas would lose their privilege. Bob Winfield explained that if they entered the armed forces in the State of Montana, they would be considered a resident regardless of where they were serving. An exception of when a person could carry two resident licenses is when the person in the armed forces is located in another state and after having met that state's residency requirement, would be issued a hunting or fishing license for that state.

Senator Grosfield questioned the language "active duty in Montana" and Director Cool responded that this would cover anyone assigned to Malmstrom Air Base. This regular air force assignment overrides all residency criteria. This is reciprocal in every other state.

Senator Jergeson expressed his concern about the person who had none of the identification required by FWP and was still legally a resident of the State. Senator Yellowtail stated that this person could get a Motor Driver Examiner's Identification Card.

Closing by Sponsor:

Senator Yellowtail felt that this bill was necessary legislation to control a problem that now exists for licensing at the FWP. He urges passage of SB 298.

EXECUTIVE ACTION ON SB 298

Amendments, Discussion, and Votes:

Senator Svrcek made the motion to amend the bill to be gender neutral.

The amendment was voted in with Senator Swift voting "No."

Recommendation and Vote:

Senator Rye made the motion to pass SB 298 as amended. SB 298 pass unanimously.

HEARING ON SB 291

Presentation and Opening Statement by Sponsor:

Senator Rye, Senate Dist. No. 47, stated this bill was requested by FWP. This bill would allow FWP wardens to arrest persons shooting at lifelike decoys and would also establish penalties for such poachers. There would be no impact on the FWP funds as these monies are already available. This law is enacted in other states and he would like Montana to follow suit.

Senator Rye presented a fish and game video showing potential poachers shooting at a lifelike decoy of a deer that had been planted in a wooded area.

Proponents' Testimony:

Susan Leonard, Montana Audubon Legislative Fund, supports SB 115. They feel that this bill will aid enforcement officials to more effectively regulate the illegal taking of wildlife.

K. L. Cool, Director of Fish, Wildlife and Parks, feels that this bill is necessary legislation because the present statues do not address shooting or attempting to shoot at simulated wildlife. See Exhibit No. 5.

Bob Winfield, Captain with FWP, stated that there are 38 states presently using this type of simulated wildlife program and have been using it for various reasons. The beauty of this program is that it places the game wardens in the same area where the violation may potentially occur. After working spotlighters for many, many years and taking an average of 14-17 hour nights to catch one, this would be a great asset to FWP enforcement program.

SENATE FISH AND GAME
EXHIBIT NO. 4
DATE 2/19/91
BILL NO. SB298

SB 298
February 19, 1991

Testimony presented by K.L. Cool, Dept. of Fish, Wildlife & Parks to Senate Fish and Game Committee

SB 298 consolidates and clarifies the elements necessary to determine legal residency for purposes of obtaining hunting, fishing and trapping licenses. The residency requirements, as presently written, are not specific enough to effectively support criminal prosecutions and, in fact, are sometimes confusing to sportsmen because the requirements are vague. County attorneys prosecuting residency cases and courts have frequently found the current residency statutes unworkable. Some county attorneys have told us they will no longer prosecute residency cases until Montana has a workable law. This bill will not change who qualifies as a resident, but will make specific and clarify the standards for determining residency.

Simply stated, the current statute defines a resident as a person who has moved to Montana and intends to make his or her home here. The only specific requirement is that a person must be a resident 6 months prior to being eligible to purchase a resident hunting, fishing or trapping license. With this vague and general definition, it is understandable that county attorneys have difficulty prosecuting an individual who owns property and lives part of the year in Montana, but earns his living and pays state income taxes in another state.

SB 298 defines a resident by requiring that he or she meet listed criteria. These are criteria that a bona fide resident will meet, such as registering vehicles, paying Montana state income taxes, registering to vote, and not using resident hunting or fishing privileges in another state. The 6-months residency wait is, of course, retained. The primary and most workable requirement proposed is, that to qualify as a Montana resident, a person must file Montana state income tax returns when required as a resident.

The other changes proposed in the bill:

1. Clarify military service for purposes of providing resident privileges by adding the word "regular" to differentiate full-time military personnel from National Guard or reserve members who come to Montana for short training exercises.

2. Provide that license applicants must provide documentation or proof of residency.

3. Provide that it is a misdemeanor to purposely or knowingly assist an unqualified person to purchase a resident license or

SENATE STANDING COMMITTEE REPORT

MR. PRESIDENT:

We, your committee on Fish and Game having had under consideration Senate Bill No. 298 (first reading copy -- white), respectfully report that Senate Bill No. 298 be amended and as so amended do pass:

1. Page 2, line 7.
Strike: "he"
Insert: "the person"

2. Page 2, line 9.
Strike: "he"
Insert: "the person"

3. Page 2, line 11.
Strike: "he"
Insert: "the person"

4. Page 2, line 13.
Strike: "he"
Insert: "the person"

5. Page 2, line 14.
Strike: "he"
Insert: "the person"

6. Page 2, line 15.
Strike: "he"
Insert: "the person"

7. Page 2, line 18.
Following: "if"
Strike: "he"
Insert: "the person"
Following: "vote,"
Strike: "he"
Insert: "the person"

8. Page 2, line 23.
Strike: "he"
Insert: "the person"

9. Page 3, line 21.
Strike: "his"
Insert: "the applicant's"

10. Page 4, line 6.
Strike: "his"
Insert: "the applicant's"

11. Page 6, line 15.
Strike: "he"
Insert: "the person"

12. Page 6, line 16.
Strike: "his"
Insert: "the person's"

13. Page 7, line 10.
Strike: "his"
Insert: "the applicant's"

Signed: Bob Williams
Bob Williams, Chairman

2/20/91
Amd. Cbord.

SB 2/20 1:30
Sec. of Senate

HEARING ON SENATE BILL 298

Presentation and Opening Statement by Sponsor:

SEN. BILL YELLOWTAIL, House District 50, Wyola, said this bill clarifies the elements necessary to determine residency for purposes of hunting, fishing, and trapping licensing; provides for the documentation of residency; and provides penalties.

Proponents' Testimony:

Bob Lane, FWP, supports this bill. EXHIBIT 8

Bob Winfield, FWP, gave the committee magazine articles on residency. This bill lists the criteria the department uses to determine residency when issuing licenses. The current residency requirements are not specific enough to effectively support criminal prosecutions and are sometimes confusing to sportsmen.

Opponents' Testimony: none

Questions From Committee Members:

REP. MCCARTHY asked when the six month residency requirement starts. Mr. Lane said when a person moves here with the intent to stay. Residency rules need to be clarified. REP. MCCARTHY asked why an enrollee of a job corps camp is permitted to get a fishing license, but not a hunting license. Will they be permitted hunting licenses? Mr. Lane said no. REP. ELLISON asked if any agents have falsely sold licenses. Mr. Winfield said the intent is not to go after an honest licensing agent if someone else is dishonest. REP. FORRESTER asked what proof is needed to obtain a hunting license. Mr. Winfield said a Montana driver's license or I.D. The department also has a standardized form for a person who doesn't have identification. REP. MCCARTHY asked what identification is needed and how an individual proves that he is now a resident. Mr. Winfield said that criteria is listed in the bill.

Closing by Sponsor:

SEN. YELLOWTAIL said the burden is placed on the applicant to furnish proof of residency. This is a good bill and should clarify the enforcement process.

EXECUTIVE ACTION ON SENATE FILL 298

Motion/Vote: REP. DAILY MOVED SB 298 BE CONCURRED IN. Motion carried unanimously.

Motion/Vote: REP. ELLISON MOVED SB 298 BE PLACED ON THE CONSENT CALENDAR. Motion carried unanimously.

HOUSE OF REPRESENTATIVES

FISH AND GAME COMMITTEE

ROLL CALL DATE 3-15-91

NAME	PRESENT	ABSENT	EXCUSED
REP. JOHN JOHNSON, VICE-CHAIRMAN			✓
REP. BEVERLY BARNHART	✓		
REP. FRED "FRITZ" DAILY	✓		
REP. ROGER DEBRUYCKER	✓		
REP. ORVAL ELLISON	✓		
REP. GARY FORRESTER	✓		
REP. BOB GILBERT			✓
REP. MARIAN HANSON	✓		
REP. VERNON KELLER	✓		
REP. BEA MCCARTHY	✓		
REP. BRUCE MEASURE	✓		
REP. JOHN PHILLIPS	✓		
REP. TED SCHYE	✓		
REP. JOHN SCOTT	✓		
REP. WILBUR SPRING	✓		
REP. BILL STRIZICH	✓		
REP. JIM ELLIOTT, CHAIRMAN	✓		

CS05FISH&G.MAN

Cooper

HOUSE STANDING COMMITTEE REPORT

March 16, 1991
Page 1 of 1

Mr. Speaker: We, the committee on Fish and Game report that Senate Bill 298 (third reading copy -- blue) be concurred in and be placed on consent calendar.

Signed: _____
Jim Elliott, Chairman

Carried by: Rep. Elliott

EXHIBIT 8
DATE 3-15-91
SB 298

SB 298
March 15, 1991

Testimony presented by K.L. Cool, Dept. of Fish, Wildlife & Parks to House Fish and Game Committee

SB 298 consolidates and clarifies the elements necessary to determine legal residency for purposes of obtaining hunting, fishing and trapping licenses. The residency requirements, as presently written, are not specific enough to effectively support criminal prosecutions and, in fact, are sometimes confusing to sportsmen because the requirements are vague. County attorneys prosecuting residency cases and courts have frequently found the current residency statutes unworkable. Some county attorneys have told us they will no longer prosecute residency cases until Montana has a workable law. This bill will not change who qualifies as a resident, but will make specific and clarify the standards for determining residency.

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SB 298 defines a resident by requiring that he or she meet listed criteria. These are criteria that a bona fide resident will meet, such as registering vehicles, paying Montana state income taxes, registering to vote, and not using resident hunting or fishing privileges in another state. The 6-months residency wait is, of course, retained. The primary and most workable requirement proposed is, that to qualify as a Montana resident, a person must file Montana state income tax returns when required as a resident.

The other changes proposed in the bill:

1. Clarify military service for purposes of providing resident privileges by adding the word "regular" to differentiate full-time military personnel from National Guard or reserve members who come to Montana for short training exercises.

2. Provide that license applicants must provide documentation or proof of residency.

3. Provide that it is a misdemeanor to purposely or knowingly assist an unqualified person to purchase a resident license or to sell a license to a person who fails to produce the required identification.

4. Add a penalty section for a person unlawfully obtaining a resident license which provides a minimum fine of twice the value of the license that was fraudulently obtained.

Our department believes that this bill will greatly improve the ability of our officers, license agents and county attorneys to clarify the requirements for resident privileges and fairly enforce the laws that provide these privileges to Montana residents.